



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,625	02/19/2002	Philippe Moquin	SMB 2 0962	5120

7590 05/29/2003

James W. McKee
Fay, Sharpe, Fagan
Minnich & McKee, LLP
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114-2518

[REDACTED] EXAMINER

NGUYEN, TUAN DUC

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

2643

DATE MAILED: 05/29/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/078,625	MOQUIN ET AL. Examiner Tuan D. Nguyen	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
Period for Reply			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
1) <input type="checkbox"/> Responsive to communication(s) filed on _____ . 2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final. 3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.			
Disposition of Claims			
4) <input checked="" type="checkbox"/> Claim(s) <u>1-5</u> is/are pending in the application. 4a) Of the above claim(s) _____ is/are withdrawn from consideration. 5) <input type="checkbox"/> Claim(s) _____ is/are allowed. 6) <input checked="" type="checkbox"/> Claim(s) <u>1-5</u> is/are rejected. 7) <input type="checkbox"/> Claim(s) _____ is/are objected to. 8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.			
Application Papers			
9) <input type="checkbox"/> The specification is objected to by the Examiner. 10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.			
Priority under 35 U.S.C. §§ 119 and 120			
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of: 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____ . 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.			
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) <input type="checkbox"/> The translation of the foreign language provisional application has been received. 15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.			
Attachment(s)			
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> .		4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____ .	

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. patent number 4,349,082 (Gastmeier).

Regarding claim 1, Gastmeier discloses a gasket for use with a microphone, comprising: at least one tube (column 1 line 68 item 10) for receiving said microphone and for directing sound thereto, said tube giving rise to a characteristic acoustical response for said microphone; and a perforated membrane (column 2 lines 7-8 item 18) within said tube and constructed integrally therewith for modifying the acoustical response of said microphone.

Regarding claim 2, Gastmeier also shows the perforated membrane is located adjacent said microphone (figure 5).

Regarding claim 3, Gastmeier also shows wherein said membrane is perforated with a plurality of holes distributed evenly across said membrane (figure 2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent number 4,349,082 (Gastmeier) in view of U.S. patent number 4,028,504 (Massa).

Regarding claim 4, Gastmeier does not disclose wherein said tube is approximately 15 mm in length to provide a 4000 Hz cut-off frequency and to provide significant electrostatic discharge protection.

However, Massa teaches a shock mount for transducer which increases the sensitivity of the transducer within the approximate audio frequency region 1 KHz to 20 KHz that the ratio of diameter to length of the tubular opening (D/L) (column 3 lines 9-16).

Therefore, it would have been obvious to a one of ordinary skill in the art at the time of the invention was made to use the tube length by Massa in Gastmeier for electrostatic discharge protection.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent number 4,796,288 (Bushche et al) in view of U.S. patent number 4,349,082 (Gastmeier).

Art Unit: 2643

Regarding claim 5, Bushche et al does not disclose a specific dimension of the acoustic resistance (figure 2 items 26 and 27).

However, Gastmeier disclose an approximate size of the acoustic resistance (column 2 lines 35-66).

Therefore, it would have been obvious to a one of ordinary skill in the art at the time of the invention was made to use the approximate dimension of the acoustic resistance by Gastmeier in Bushche et al for sound resistance and electrostatic discharge protection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan D. Nguyen whose telephone number is (703) 305-7168. The examiner can normally be reached on M-F 8:15-4:45. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (703)305-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

TDN

May 19, 2003